

April 23, 2021

Via ECF and First-Class Mail

Honorable Judge Algenon L. Marbley
Chief Judge
U.S. District Court for the Southern District of Ohio
85 Marconi Boulevard, Room 323
Columbus, OH 43215

Honorable Judge Edmund A. Sargus
U.S. District Court for the Southern District of Ohio
85 Marconi Boulevard, Room 301
Columbus, OH 43215

Honorable Kimberly A. Jolson
Magistrate Judge
U.S. District Court for the Southern District of Ohio
85 Marconi Boulevard, Room 200
Columbus, OH 43215

Re: *In re FirstEnergy Corp. Securities Litigation*,
No. 2:20-cv-03785-ALM-KAJ, and
Jacob Smith v. FirstEnergy Corp.,
No. 2:20-cv-3755-EAS-KAJ.

Dear Chief Judge Marbley, Judge Sargus, and Magistrate Judge Jolson:

With our co-counsel, we represent Plaintiffs in the above-referenced proposed ratepayers' RICO and OCPA class action (*Smith*), which is pending before Judge Edmund A. Sargus and Magistrate Judge Jolson.

Pursuant to Judge Sargus's Opinion & Order Denying Defendants' Motion to Dismiss, ECF No. 38 (Feb. 10, 2021), and Magistrate Judge Jolson's Opinion and Order denying Defendants' motion to stay discovery, ECF No. 39 (Feb. 11, 2021), and the Scheduling Order entered by Magistrate Judge Jolson, ECF No. 43 (Mar. 5, 2021), class certification-related discovery in the *Smith* litigation began on March 15, 2021, and merits discovery began on April 1, 2021. In accordance with that schedule, we have served written discovery requests upon Defendants in the *Smith* litigation, and we have recently received their written responses and objections.

We have reviewed the Motion to Partially Lift the PSLRA Discovery Stay that was recently filed in the above-referenced securities fraud proposed class action. To the extent that motion advocates the coordination of merits discovery between the above-referenced cases, we write to express our support for that proposal. Because these FirstEnergy-related proposed class actions involve common Defendants, common facts, and will likely involve common evidence

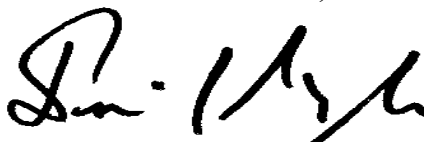
and common witnesses, the exercise of coordination between these cases will lead to the efficient conduct of discovery.

Our support of PSLRA Plaintiffs' request is based in part on *In Roxane Laboratories, Inc. v. Abbott Laboratories*, 2013 WL 521571 (S.D. Ohio Sept. 16, 2013), where the Court was asked to consolidate two patent cases initiated in different district courts (which had already been consolidated) with a newer action that also filed in this Court by a new party which alleged that Roxane was infringing on the new party's patents. The new party and Abbott sought to consolidate the new case with the existing cases. *Id.* at *2. For a variety of reasons, the Court denied the motion to consolidate. *Id.* at *4. The parties advocating consolidation argued that it was necessary to prevent duplicative and overlapping discovery. But the Court held that it could "coordinate discovery and minimize the risk and burden of duplicative discovery even without consolidation," citing precedent from both the Northern and Southern Districts of Ohio. *Id.* *3. The *Smith* Plaintiffs respectfully suggest that the same is true here and therefore voice their support for the coordination of merits discovery in the *Smith* (ratepayer) case and the securities fraud case.

Very truly yours,

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